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			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,474

Applicant(s)

YASHCHIN ET AL.

Examiner

Alicia Baturay

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. In view of the appeal brief filed on 31 October 2005, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.
2. Claims 1, 3-10 and 12-19 are pending in this Office Action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant states the topic separator is responsive to the time synchronizer to determine topical relationships between messages following the limitation that an automatic topic separator separates messages according to different topics, where the separation occurs according to words used in the messages. It is unclear, as stated in the claim language, how the message, which has already been separated by words, would then be separated by time stamping.
5. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear which previously opened window the received message

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that is not a new topic is to be displayed in. Examiner believes clarifying phrases similar to “...in a *related* previously opened window” or “...in an *associated* previously opened window” help rectify this indefiniteness.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 3 and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Gruen et al. (US 6393,460).

8. With respect to claim 1, Gruen teaches a messaging system comprising:

An interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17); an automated topic separator receiving user messages (Gruen, col. 4, lines 18-30) and separating messages according to different topics (Gruen, col. 3, lines 44-48), where the automated topic separator separates messages or parts of messages according to words used in the messages (Gruen, col. 5, lines 18-23); and a user interface, coupled to the topic separator, for representing in a distinct way parts of messages that were separated by the topic separator (Gruen, Fig. 1, element 20; col. 6, lines 50-67); and

a time synchronizer for time stamping messages, the topic separator being responsive to the time synchronizer to determine topical relationships between messages (Gruen, col. 4, lines 48-52).

9. With respect to claim 3, Gruen teaches the invention described in claim 1, including the messaging system where the user interface displays messages in windows according to topic (Gruen, Fig. 1, element 20; col. 6, lines 50-67).

10. With respect to claim 8, Gruen teaches a method of conducting a messaging session at a user's computer between two or more users over a network comprising the steps of:

Receiving a message over the network from a user (Gruen, col. 4, lines 11-17); automatically identifying a topic of the received message (Gruen, col. 4, lines 18-30) based on words used in the message (Gruen, col. 5, lines 18-23); determining if the topic of the received message has changed from a previous message (Gruen, col. 7, lines 5-9); identifying a time of a received message; determining if a changed topic is a new topic using the time of the received message to determine whether the topic has changed or is a new topic (Gruen, col. 4, lines 48-52); determined if a changed topic is a new topic (Gruen, col. 7, lines 5-9); and if a new topic, opening a new window to display the received message (Gruen, Fig. 1, element 20; col. 6, lines 50-67).

11. With respect to claim 9, Gruen teaches the invention described in claim 8, including the method of conducting a messaging session where if the topic of the received message has not

changed, further comprising the step of displaying the received message in a currently opened window (Gruen, Fig. 1, element 20; col. 6, lines 50-67).

12. With respect to claim 10, Gruen teaches the invention described in claim 8, including the method of conducting a messaging session where if a changed topic is not a new topic, further comprising the step of displaying the received message in a previously opened window (Gruen, Fig. 1, element 20; col. 6, lines 50-67).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 4, 5, 12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruen and further in view of Cragun (U.S. 6,557,027).

Gruen teaches the invention substantially as claimed including a method for informing a user of topics of discussion in a chat between two or more people is described. The method includes the steps of identifying elements from the chat having similar content, labeling some or all of the identified elements as topics, and presenting the topics to the user. Identifying elements from the chat having similar content includes decomposing the chat into utterances

made by the people involved in the chat and clustering the utterances using document clustering techniques on each utterance to identify elements in the utterances having similar content (see Abstract).

15. With respect to claim 4, Gruen teaches the invention described in claim 1, including a messaging system comprising a user interface, coupled to the topic separator, for representing in a distinct way parts of messages that were separated by the topic separator (Gruen, Fig. 1, element 20; col. 6, lines 50-67).

Gruen does not explicitly teach separation of topic by color.

However, Cragun teaches the messaging system where the user interface displays messages in different colors according to topic (Cragun, col. 5, lines 6-10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the separation of topic by color. One would be motivated to do so in order to clearly differentiate messages according to sub-topic.

16. With respect to claim 5, Gruen teaches the invention described in claim 1, including a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

17. With respect to claim 12, Gruen teaches the invention described in claim 8, including a method of conducting a messaging session at a user's computer between two or more users over a network comprising the step of receiving a message over the network from a user (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the method of conducting a messaging session further comprising the step of checking a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

18. With respect to claim 16, Gruen teaches the invention described in claim 1, including a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of multiple messaging sessions.

However, Cragun teaches the messaging system enables a subgroup of users to conduct a messaging session separately from other users of the messaging system (Cragun, col. 3, lines 51-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of multiple messaging sessions. One would be motivated to do so in order to allow discussions of topics that are only relevant to certain groups of participants.

19. With respect to claim 17, Gruen teaches the invention described in claim 8, including a method of conducting a messaging session at a user's computer between two or more users over a network comprising the step of receiving a message over the network from a user (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of multiple messaging sessions.

However, Cragun teaches the method of conducting a messaging session where a subgroup of users comprising at least two users conducts a messaging session separately from other users (Cragun, col. 3, lines 51-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of multiple messaging sessions. One would be motivated to do so in order to allow discussions of topics that are only relevant to certain groups of participants.

20. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruen in view of Cragun and further in view of Fredell et al. (U.S. 2001/0028364).

Gruen teaches the invention substantially as claimed including a method for informing a user of topics of discussion in a chat between two or more people is described. The method includes the steps of identifying elements from the chat having similar content, labeling some or all of the identified elements as topics, and presenting the topics to the user. Identifying elements from the chat having similar content includes decomposing the chat into utterances made by the people involved in the chat and clustering the utterances using document clustering techniques on each utterance to identify elements in the utterances having similar content (see Abstract).

21. With respect to claim 6, Gruen teaches the invention described in claim 5, including a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

Gruen teaches a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

The combination of Gruen and Cragun does not explicitly teach validation of users by other users.

However, Fredell teaches where the security system includes a database of questions from which random questions are posed to a user and where verification of validity of answers to posed questions is done by users of the system (Fredell, page 7, paragraph 89).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Gruen and Cragun in view of Fredell in order to enable validation of users by other users. One would be motivated to do so in order to allow persons to communicate securely and add and drop persons from the session when necessary.

22. Claims 7, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruen in view of Cragun and further in view of Maes et al. (U.S. 6,016,476).

Gruen teaches the invention substantially as claimed including a method for informing a user of topics of discussion in a chat between two or more people is described. The method includes the steps of identifying elements from the chat having similar content, labeling some or all of the identified elements as topics, and presenting the topics to the user. Identifying elements from the chat having similar content includes decomposing the chat into utterances made by the people involved in the chat and clustering the utterances using document clustering techniques on each utterance to identify elements in the utterances having similar content (see Abstract).

23. With respect to claim 7, Gruen teaches the invention described in claim 5, including a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

Gruen teaches a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

The combination of Gruen and Cragun does not explicitly teach the use of biometrics.

However, Maes teaches where the security system includes a biometric module for verification of a user's identity (Maes, col. 8, lines 52-56).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Gruen and Cragun in view of Maes in order to enable the use of biometrics. One would be motivated to do so in order to add a level of verification that an unauthorized user could not duplicate.

24. With respect to claim 13, Gruen teaches the invention described in claim 12, including including a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication.

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One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

Gruen teaches a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

The combination of Gruen and Cragun does not explicitly teach a security method in which a user is asked questions and the answers are evaluated.

However, Maes teaches the step of checking a user's identity comprises the steps of asking the user random questions (Maes, col. 8, lines 18-21) and evaluating the user's answers (Maes, col. 8, lines 56-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Gruen and Cragun in view of Maes in order to facilitate the use of a security method in which a user is asked questions and the answers are evaluated. One would be motivated to do so in order to add a level of verification that an unauthorized user could not duplicate.

25. With respect to claim 15, Gruen teaches the invention described in claim 12, including a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

Gruen teaches a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

The combination of Gruen and Cragun does not explicitly teach the use of biometrics.

However, Maes teaches the step of checking a user's identity is performed using biometrics (Maes, col. 8, lines 52-56).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Gruen and Cragun in view of Maes in order to enable the use of biometrics. One would be motivated to do so in order to add a level of verification that an unauthorized user could not duplicate.

26. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruen in view of Cragun and in view of Maes and further in view of Fredell.

27. With respect to claim 14, Gruen teaches the invention described in claim 13, including a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

The combination of Gruen and Cragun does not explicitly teach a security method in which a user is asked questions and the answers are evaluated.

However, Maes teaches the step of checking a user's identity comprises the steps of asking the user random questions (Maes, col. 8, lines 18-21) and evaluating the user's answers (Maes, col. 8, lines 56-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Gruen and Cragun in view of Maes in order to facilitate the use of a security method in which a user is asked questions and the answers are evaluated. One would be motivated to do so in order to add a level of verification that an unauthorized user could not duplicate.

Gruen teaches a messaging system comprising an interactive system for production and interchange of messages by users over a network (Gruen, col. 4, lines 11-17).

Gruen does not explicitly teach the use of authentication.

However, Cragun teaches the messaging system further comprising a security system to verify a user's identity (Cragun, col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Cragun in order to enable the use of authentication. One would be motivated to do so in order to restrict usage of the messaging system to only those authorized to use it.

The combination of Gruen and Cragun does not explicitly teach a security method in which a user is asked questions and the answers are evaluated.

However, Maes teaches the step of checking a user's identity comprises the steps of asking the user random questions (Maes, col. 8, lines 18-21) and evaluating the user's answers (Maes, col. 8, lines 56-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Gruen and Cragun in view of Maes in order to facilitate the use of a security method in which a user is asked questions and the answers are evaluated. One would be motivated to do so in order to add a level of verification that an unauthorized user could not duplicate.

The combination of Gruen, Cragun and Maes does not explicitly teach a security system in which another user verifies the answers.

However, Fredell teaches the method of conducting a messaging session where the step of evaluating the user's answers is performed by another user (Fredell, page 7, paragraph 89).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Gruen, Cragun and Maes in view of Fredell in order to enable validation of users by other users. One would be motivated to do so in order to allow persons to communicate securely and add and drop persons from the session when necessary.

28. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruen and further in view of Kanevsky (U.S. 6,557,027).
29. With respect to claim 18, Gruen teaches the invention described in claim 1, including the messaging system where an automated topic separator receiving user messages (Gruen, col. 4, lines 18-30) and separating messages according to different topics (Gruen, col. 3, lines 44-

48), where the automated topic separator separates messages or parts of messages according to words used in the messages (Gruen, col. 5, lines 18-23).

Gruen does not explicitly teach a method of alerting the user to the inability of the topic separator to place a message in a particular topic.

However, Kanevsky teaches the messaging system where the automated topic separator is operable for indicating to the user when the topic of a message cannot be decided by the topic separator (Kanevsky, col. 2, line 64 – col. 3, line 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Kanevsky in order to alert the user to the inability of the topic separator to place a message in a particular topic. One would be motivated to do so in order to facilitate automatic real time topic identification of textual data and to free the user from having to sort the messages as much as possible.

30. With respect to claim 19, Gruen teaches the invention described in claim 8, including a method of conducting a messaging session at a user's computer between two or more users over a network comprising the steps of determining if a changed topic is a new topic using the time of the received message to determine whether the topic has changed or is a new topic (Gruen, col. 4, lines 48-52).

Gruen does not explicitly teach a method of alerting the user to the inability of the topic separator to place a message in a particular topic.

However, Kanevsky teaches the method of conducting a messaging session where the topic of the received message can not be decided, and further comprising the step of

indicating to the user that the topic of the received message could not be decided (Kanevsky, col. 2, line 64 – col. 3, line 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gruen in view of Kanevsky in order to alert the user to the inability of the topic separator to place a message in a particular topic. One would be motivated to do so in order to facilitate automatic real time topic identification of textual data and to free the user from having to sort the messages as much as possible.

Response to Arguments

31. Applicant's arguments filed 31 October 2005 have been fully considered, but they are not persuasive for the reasons set forth below.

32. ***Applicant Argues:*** Applicant states "Kanevsky et al. do not show or discuss having a topic separator that is responsive to time stamping by a time synchronizer."

In Response: The examiner respectfully submits that Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

33. ***Applicant Argues:*** Applicant states "Fredell et al. does not teach or suggest "user to user authentication" as required in claims 6 and 14."

In Response: The examiner respectfully submits that Fredell teaches where the security system includes a database of questions (online user directory) from which random questions are posed to a user (basic demographics like name and address, email, fax, and phone, as well as system access rights) and where verification of validity of answers to posed questions is done by users of the system (The Network Service Provider Manager and the Project Manager have the capability to change user access rights and to remove or add users – see Fredell, page 7, paragraph 89). This renders the rejection proper, and thus rejection stands.

34. ***Applicant Argues:*** Applicant states “The patent Maes et al. has been merely cited only for its use of a biometric. It is therefore not possible for a person skilled in the art to refer to Maes et al. to arrive at the claimed subject matter.”

In Response: The examiner respectfully submits that in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). This renders the rejection proper, and thus rejection stands.

Conclusion

The Office action following a reopening of prosecution may be made final if all new grounds of rejection were either (A) necessitated by amendment or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at 7:30am - 5pm, Monday - Thursday, and every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alicia Baturay
January 5, 2006


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER